

6-210A068

ALABAMA & FLORIDA RAILROAD CO., INC.  
200 South Main Street  
Opp, Alabama 36467

July 28, 1986

No. ~~15007~~  
Date JUL 29 1986  
Fee \$ 10.00  
ICC Washington, D.C.

15007  
Filed 1-15

JUL 29 1986 - 1 15 PM

HAND DELIVERED

Mr. James H. Bayne  
Secretary  
Interstate Commerce Commission  
12th St. & Constitution Ave., NW  
Washington, D.C. 20423

Dear Mr. Bayne:

I have enclosed an original and one counterpart of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a Mortgage, Security Agreement and Assignment of Leases and Rents dated as of July 25, 1986.

The names and addresses of the parties to the transaction are as follows:

Mortgagor: Alabama & Florida  
Railroad Co, Inc.  
200 S. Main Street  
Opp, Alabama 36467

Mortgagee: General Electric Credit Corporation  
1600 Summer Street  
Stamford, Connecticut 06905

A description of the equipment covered by the document follows:

1. Locomotive, Model No. EMDGP9, Identifying C&O No. 6076.
2. Locomotive, Model No. EMDGP9, Identifying C&O No. 6084.
3. Locomotive, Model No. EMDGP9, Identifying C&O No. 6094.
4. Locomotive, Model No. EMDGP9, Identifying C&O No. 6226.
5. Locomotive, Model No. EMDGP9, Identifying C&O No. 6011.

JUL 29 1 14 PM '86  
ICC OFFICE OF  
THE SECRETARY  
MOTOR OPERATING UNIT

Mr. James H. Bayne

-2-

July 28, 1986

Pursuant to 49 C.F.R. Part 1177, please stamp the document described above with the date and hour of recordation, a recordation number and a notation to the effect that it has been filed pursuant to the provisions of Section 11303 of Title 49 of the United States Code. After performing these tasks, please retain the counterpart copy of this document in the Commission's files and return the original copy thereof to:

Cravath, Swaine & Moore  
One Chase Manhattan Plaza  
New York, N.Y. 10005

Attn: David L. Ridl, Esq.

A short summary of the document to appear in the index as follows:

Mortgage, Security Agreement, and Assignment of Leases and Rents dated as of July 25, 1986 by and between Alabama & Florida Railroad Co., Inc., an Alabama corporation, and General Electric Credit Corporation, a New York corporation, as beneficiary and establishing a security interest in, among other things, five locomotives.

A check drawn to the order of the Interstate Commerce Commission for filing fees is enclosed.

Your cooperation is appreciated.

ALABAMA & FLORIDA RAILROAD CO., INC.

By: Mark M. Weiner  
Weiner, McCaffrey, Brodsky  
& Kaplan, P.C.  
Legal Counsel

2997D/7280

**Interstate Commerce Commission**  
Washington, D.C. 20423

7/29/86

OFFICE OF THE SECRETARY

Cravath, Swaine & Moore  
One Chase Manhattan Plaza  
New York, N.Y. 10005

Attn: David L. Ridl

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 7/29/86 at 1:55pm, and assigned re-recording number(s). 15007

Sincerely yours,

*Norita R. McGee*

Enclosure(s)

SE-30  
(7/79)

JUL 29 1986 :1 55 PM

## INTERSTATE COMMERCE COMMISSION

MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS, dated as of July 25, 1986, between ALABAMA & FLORIDA RAILROAD COMPANY, INC., a corporation organized and existing under the laws of the State of Alabama (the "Company"), with its address at 200 South Main Street, Opp, Alabama 36467, and GENERAL ELECTRIC CREDIT CORPORATION, a New York corporation ("GECC"), with its address at 1600 Summer Street, Stamford, Connecticut 06905.

The Company has been duly organized under the laws of the State of Alabama.

The Company, pursuant to certain purchase, sale and lease documents dated as of July 25, 1986, by and between CSX Transportation, Inc., a Virginia corporation, and the Company (the "Purchase and Sale Agreement"), proposes, promptly after execution and delivery hereof, to acquire and operate certain railroad assets now owned by the Seller and located in the States of Alabama and Florida, as more particularly identified in the Purchase and Sale Agreement (the "Acquired Rail Assets").

The Company and GECC have entered into a Loan Agreement dated as of July 25, 1986 (the "Loan Agreement"), providing for a secured loan to the Company in the principal amount of \$1,030,000 to be evidenced by a Note (as defined in the Loan Agreement) for the purpose of acquiring the Acquired Rail Assets and starting up the business of operating the Acquired Rail Assets, subject to the condition, among other things, that the Company execute and deliver this Mortgage, Security Agreement and Assignment of Leases and Rents (this "Mortgage") to secure the Obligations (as hereinafter defined).

All requirements of law and of the charter and the by-laws of the Company have been duly complied with, and all things necessary to make the Note, when executed by the Company, the valid and binding obligation of the Company, and to make this Mortgage a valid and binding mortgage, security agreement and assignment of Leases and Rents (as

hereafter defined) for the security of the Obligations (as hereinafter defined), have been done and performed.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and in the Loan Agreement and the Note, the Company and GECC hereby agree as follows:

Section 1. Definitions. Unless the context otherwise requires, the following terms shall have the following meanings:

"Closing Date" shall have the meaning specified in the Loan Agreement.

"Collateral" shall have the meaning assigned to such term in Section 2(a) hereof.

"Event of Default" shall have the meaning assigned to such term in the Loan Agreement.

"Leases" shall mean all leases and other agreements, licenses and instruments to which the Company is a party or which affect the use or occupancy of any of the Acquired Rail Assets or other assets or properties of the Company or pursuant to which the Company derives rights or interests material to the operation and maintenance of a continuous railroad system between the points and on the branch lines specified in the Purchase and Sale Agreement, including without limitation the Purchase and Sale Agreement, the Conditional Lease Agreements (as defined in the Loan Agreement) and the Interchange Agreements (as defined in the Loan Agreement) and all rights thereunder, including (i) all rights, claims, powers, privileges and remedies of the Company, whether provided for in the Leases or arising by statute or at law or in equity or otherwise, consequent on any failure on the part of any tenant or other obligor to perform or comply with any term of the Leases; (ii) all rights to take any and all actions upon the occurrence of a default under the Leases as shall be permitted by the Leases or by law, including, without limitation, the commencement, conduct and consummation of proceedings at law or in equity; and (iii) the right, power and authority in the name of the Company or otherwise, to enforce, collect, receive and receipt for any and all of the foregoing and the Rents and to do any and all other acts and things whatsoever

which the Company is or may be entitled to do under the Leases, subject to the terms and conditions hereof.

"Liens" shall have the meaning assigned to such term in the Loan Agreement.

"Loan Documents" shall have the meaning specified in the Loan Agreement.

"Obligations" shall mean the obligation to make due and punctual payment of principal of and premium and interest on the Note according to its tenor, purport and effect and to perform all other obligations under the Loan Agreement, the Note, this Mortgage, and all other agreements and instruments made and executed by the Company in connection with the Loan, in each case, as the same may be amended, modified or supplemented, including without limitation the obligations to perform and observe all covenants and conditions therein and herein contained and to make due and punctual payment of all expenses and disbursements of GECC and its agents and attorneys incurred in connection with the exercise of any right or remedy under the Loan Agreement, this Mortgage or otherwise.

"Permitted Encumbrances" shall have the meaning specified in Section 2(b) hereof.

"Person" shall have the meaning specified in the Loan Agreement.

"Rents" shall mean (i) all the rents, issues, earnings, income, tolls, receipts, revenues, profits, products, proceeds, condemnation awards or any other income or payments of any nature in respect of the Leases; (ii) all damages or other amounts payable in the event of any expiration or termination of the Leases pursuant to the terms thereof, by operation of law or otherwise; (iii) any indemnification against, or reimbursement for, sums paid and costs and expenses incurred by the Company under the Leases or otherwise; and (iv) any award in the event of the bankruptcy of any tenant or other obligor under or guarantor of a lease.

"Security Interests" shall have the meaning specified in Section 2(a) hereof.

Section 2. Security Interests in the Collateral.

(a) To secure the due and punctual payment in full of the Obligations, the Company does hereby grant, convey, deliver, mortgage, assign, transfer and set over unto GECC and any other Person or Persons who shall from time to time be entitled to the benefit of the Obligations, including any holder of the Note, a first priority mortgage on and first security interest in and assignment of (the "Security Interests") all the Company's estate, right, title and interest in, to or in respect of the following property and assets, including the Leases and Rents pursuant to subsection (iv) below (collectively, the "Collateral"):

(i) the Acquired Rail Assets and any and all property and rights of every kind and description acquired or to be acquired by the Company from the Seller under the Purchase and Sale Agreement, including the lines of railroad and other properties and rights included among the Acquired Rail Assets, as described in Annex I to this Mortgage;

(ii) any and all property and rights, of every kind and description, owned, acquired or to be acquired by the Company on the date of the execution and delivery of this Mortgage, or thereafter acquired by it, or held or acquired for use or used upon or in connection with, or appertaining to, any of the lines of railroad or other property which, or any right, title or interest in which, shall at any time be subject to this Mortgage, including, without limitation, the property and rights of the Company described in Annex II to this Mortgage and:

(A) any and all lands, rights of way, roadbeds, station and depot grounds, all inclines, tunnels, culverts, spurs, tracks, turnouts, switches, sidings and turntables, all superstructures, bridges, stringers, ties, rails, frogs, chairs, bolts, tie plates, splices, signals and signal apparatus, interlocking devices and other railroad appurtenances, all telegraph, telephone and electric power transmission lines, including all wires, cables, poles, batteries, conduits, ducts, viaducts, cross overs, anchors, subways, power plants, turbines, flumes, pipes, generators, motors, switchboards and other instruments, all stations or facilities for wireless communication and signalling, all depots, roundhouses, terminals and terminal property and facilities, all station

houses, office buildings, warehouses, elevators, freight houses, engine houses, car houses, repair shops, tower houses, yard buildings, water stations, water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, machine shops and other structures, all engines, tenders, cars, buses, trucks and other rolling stock and equipment (and equity therein), all walls, fences, wharves, docks, piers and landings, steamers and steamships, ferries, boats, barges, tugs and other floating equipment, all machinery, tools, implements and other railroad appliances, apparatus and facilities, materials and supplies, and all other physical property held or acquired for use or used upon or in connection with, or appertaining to, any of said lines of railroad or other properties;

(B) any and all corporate rights, privileges, immunities and franchises, powers, licenses, easements, rights-of-way, leases of lines of railroad or other property, leasehold rights, trackage, terminal, running and traffic rights, interests, including oil, gas and other mineral interests and rights, benefits, advantages, privileges, contracts and general intangibles (as that term is used in the Uniform Commercial Code applicable thereto), and all other agreements, appurtenances and rights, and all renewals and extensions thereof, and any and all warranties and other rights the Company may have against dealers, manufacturers, contractors or subcontractors, the right to compel performance of the terms of any of the foregoing and all rights to exercise any election or option or to make any decision or determination or to give any notice, consent, waiver or approval thereunder or in respect thereof or any part thereof as well as all rights, powers and remedies of the Company arising thereunder or by statute or at law or in equity, or otherwise arising out of any default or breach thereof, all as though GECC were named therein instead of the Company;

(C) any and all goods, inventory, equipment, machinery, tools, materials, supplies and all other tangible personal property now owned or hereafter acquired by the Company, including without limitation all such property which is



attached to, located on or used in connection with any of said lines of railroad or other property;

(D) any and all accounts (as that term is used in the Uniform Commercial Code applicable thereto) and other rights to receive the payment of money, including without limitation receivables, rights to receive the payment of money under present or future contracts or agreements (whether or not earned by performance) and all chattel paper (as that term is used in the Uniform Commercial Code applicable thereto);

(E) any proceeds of and any unearned premiums on any insurance policies now or hereafter covering any part of the Collateral, including the right to receive and apply the proceeds of any insurance, judgments or settlements made in lieu thereof;

(F) any awards or payments, including interest thereon, which may be made with respect to any part of the Collateral, whether in connection with the exercise of the right of eminent domain (including any transfer made in lieu of the exercise of said right) or in connection with any other injury to or decrease in value of any part or the Collateral;

(G) any and all proceeds or other payments of any kind received by the Company as the result of the sale, lease or other disposition of the Collateral or any part thereof;

(H) all other property, assets and things of value of every kind and nature, tangible or intangible, absolute or contingent, legal or equitable, which the Company may be possessed of or entitled to; and

(I) the right, in the name of the Company, to appear in and defend any action or proceeding brought with respect to the Collateral and to commence any action or proceeding to protect the interest of the Company in the Collateral;

(iii) any and all additions, improvements and betterments to or upon or in connection with any and all lines of railroad, premises and property which, or

any estate, right or title to or interest in which, shall at any time be subject to this Mortgage, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in equity as in law, of the Company of, in and to such lines of railroad, premises and property and every part and parcel thereof and of, in and to the appurtenances and franchises appertaining or hereafter to appertain thereto;

(iv) all Leases and the right to receive and apply all the Rents;

(v) any and all other property of every kind and description, including money, shares of stock, notes, bonds, deposits and other obligations, whether owned by the Company at the date of the execution and delivery of this Mortgage or hereafter acquired by it; and

(vi) any and all property of every kind and description, including money, shares of stock, notes, bonds, deposits and other obligations, which from time to time after the date of the execution and delivery of this Mortgage by delivery or by writing of any kind shall have been Mortgaged by the Company, or by anyone on its behalf, to GECC (who is hereby authorized to receive at any and all times any property as and for additional security for the payment, performance and observance of the Obligations and to hold and apply any and all such property subject to the terms hereof).

TO HAVE AND TO HOLD the foregoing Collateral hereby conveyed and assigned, or intended to be conveyed or assigned, unto GECC, its successors and assigns forever; provided, however, that these presents are subject to the condition that if the Company shall perform or cause to be performed all the Obligations, including without limitation the payment of principal of and premium, if any, and interest on the Note, all without any deduction or credit for taxes or other charges paid by the Company, this Mortgage, and all the properties, interest and rights herein granted, bargained and sold shall cease, terminate and be void, but shall otherwise remain in full force and effect, as provided in Section 7(i).

(b) The foregoing grant of the Security Interests is subject to any Liens described in Annex III to this Mortgage to the extent, but only to the extent, that in law any such Lien shall constitute a Lien of record against any

part of the Collateral prior to the lien of this Mortgage (all such Liens described in Annex III to this Mortgage being hereinafter collectively called the "Permitted Encumbrances"); provided, however, that GECC upon the happening of any Event of Default shall have and may exercise any and all rights of the Company to terminate any such Permitted Encumbrance.

Section 3. Certain Representations and Covenants.

(a) Further Assurances. All Collateral by this Mortgage covenanted to be Mortgaged, and any Collateral at any time acquired by the Company and required by this Mortgage to be Mortgaged shall, immediately upon the acquisition thereof by the Company and without any further act, become and be subject to the lien of this Mortgage as fully and completely as though now owned by the Company and specifically described in Section 2 hereof; but, at any and all times, the Company will make and deliver any and all such further assurances or conveyances or assignments thereof as GECC may reasonably require, for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage; and the Company will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all and every such further acts, deeds, conveyances, transfers and assurances as shall be necessary or reasonably requested by GECC for such purpose.

(b) Title to Collateral; Liens. The Company represents, warrants, covenants and agrees that it is lawfully seized and possessed of said Collateral herein Mortgaged, including good and marketable title to all Collateral which is real property and good and marketable title to all Collateral which is personal property, has a good right to Mortgage such Collateral, and that such Collateral is free from all Liens except Permitted Encumbrances. Subject to the previous sentence, the Company at its expense will at all times preserve, warrant and defend its title and right in and to the Collateral and the Security Interests against the claims and demands of all Persons and will maintain and preserve the Security Interests as long as the Obligations are outstanding.

Except for Permitted Encumbrances, the Company will not create or suffer to exist any Lien which would be prior to or on a parity with the lien of this Mortgage upon the Collateral, or any part thereof, or upon the income thereof. The Company will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, promptly and in any case prior to the due date thereof, all

lawful claims and demands of mechanics, laborers and others which, if unpaid, might by law be entitled to a lien or charge upon the Collateral or some part thereof, or the income thereof; provided that the Company shall not be required to pay any such claim or demand as long as the same shall be permitted to remain unpaid under Section 6.2 of the Loan Agreement.

(c) Maintenance of Collateral; Insurance. The Company will at all times (i) diligently preserve all the rights and franchises to it granted and upon it conferred, (ii) maintain, preserve and keep the rolling stock, fixtures, appurtenances and other Collateral subject to this Mortgage in good repair, working order and condition, (iii) keep the railroads, premises and other Collateral subject to this Mortgage supplied with all necessary motive power, rolling stock and equipment and (iv) make all needful repairs, renewals and replacements, alterations, additions, betterments and improvements. The Company will at all times preserve its corporate existence. The Company will maintain or cause to be maintained insurance with respect to the Collateral and its business in accordance with the provisions of Section 5.4 of the Loan Agreement.

(d) Recording of Mortgage. The Company, at its own cost and expense, will cause this Mortgage, and will execute and cause all mortgages, amendments and instruments supplemental hereto and all financing statements and other documents, to be recorded and filed and to be kept recorded and filed in such manner, at such times and in such places as may be required by law or necessary or advisable or reasonably requested by GECC in order fully to establish, preserve, protect and perfect the Security Interests and the rights of GECC and all other Persons entitled to the benefit of the Obligations.

#### Section 4. Remedies and Other Rights.

(a) Remedies. If there shall occur and be continuing an Event of Default, then and in each and every such case, GECC or its agents or attorneys, may, at the expense of the Company and the Collateral, at any time and from time to time:

(i) enter into and upon all or any part of the Collateral, including the railroads, rolling stock, property and premises, lands, rights, interest and franchises hereby Mortgaged or intended so to be, and each and every part thereof, take possession thereof by force, summary proceedings, ejectment or otherwise, and

exclude the Company and all other Persons (subject to the rights of such Persons) therefrom; use, operate, manage and control all or any part of the Collateral, regulate the tolls for the transportation of passengers and freight thereon, and conduct the business thereof; by purchase, repairs or construction, maintain and restore, and insure or keep insured, all or any part of the Collateral and any property used in connection with all or any part of the Collateral, lease or otherwise deal with or convert all or any part of the Collateral to any other use which GECC shall in its sole discretion determine; make all necessary, useful or proper repairs, renewals, replacements, alterations, additions, betterments and improvements, as GECC may in its sole discretion determine; manage the Collateral and carry on the business, enter into agreements, and exercise all rights and powers of the Company, either in the name of the Company or otherwise, as GECC shall in its sole discretion determine; and collect and receive all tolls, earnings, income, rents, issues, profits and proceeds of the same and every part thereof; or

(ii) foreclose upon, sell, assign, transfer and deliver, subject to any or all then existing Liens thereon, all or any portion of the Collateral, including all the rights, title, estates, railroads, equipment, inventory, receivables, franchises, leases, leasehold interests, contracts and appurtenances, stocks and bonds, and all other property of every name and nature, and all or any estate, right, title and interest, claim and demand therein, and right of redemption thereof, at any private sale or public auction with or without demand, advertisement or notice (except as may be required by applicable law) of the date, time and place of sale and any adjournment thereof, for cash or credit or other property, for immediate or future delivery and for such price or prices and on such terms as GECC, in its sole discretion, may determine, or as may be required by applicable law; or

(iii) proceed to protect and to enforce its rights by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement contained herein or in the Loan Agreement or the Note, or in aid of the execution of any power herein or therein granted, or for the foreclosure of this Mortgage, or for the enforcement of any other appropriate

legal or equitable remedy, as GECC shall deem effectual to protect and enforce any of its rights or duties under this Mortgage; or

(iv) exercise any rights or remedies given to secured parties under the applicable Uniform Commercial Code or exercise a power of sale or any other right given to mortgagees under applicable law; the Company agrees that 15 days' prior written notice of the time and place of any public sale or the time after which a private sale of all or any portion of the Collateral may be made is reasonable for all purposes of the applicable Uniform Commercial Code; or

(v) exercise any remedies available under the Loan Agreement or the Note or any other Loan Document; or

(vi) any combination of the foregoing.

GECC may foreclose the lien of this Mortgage against the Collateral in one proceeding or against portions of the Collateral in a series of separate proceedings.

(b) Power to Convey Title. Upon any conveyance, assignment or transfer under this Mortgage, GECC shall have the power to execute and deliver to the accepted purchaser or purchasers a good and sufficient deed or deeds and other instruments conveying, assigning and transferring the Collateral sold. GECC hereby is irrevocably appointed the true and lawful attorneys of the Company, in its name and stead, to make all such conveyances, assignments and transfers of the Collateral; and, for that purpose, GECC may execute all requisite deeds and instruments of conveyance, assignment and transfer, and may substitute one or more Persons with like power, the Company hereby ratifying and confirming all that its said attorneys or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, the Company shall, if so requested by GECC, promptly ratify and confirm any conveyance, assignment or transfer by executing and delivering to GECC or to such purchaser or purchasers all such instruments as may be requested by GECC. In addition, the Company shall, if so requested by GECC, promptly execute and deliver to GECC such deeds, instruments of assignment and other documents as GECC may deem necessary or appropriate to enable GECC or any agent or representative designated by GECC to obtain possession of all or any portion or portions of the Collateral or to enjoy the benefits of any other right or remedy hereunder, subject to

the terms of this Mortgage and subject to the rights of other Persons.

(c) Effect of Sale. Any conveyance, assignment or transfer made under or by virtue of this Mortgage, whether under the power of sale herein granted and conferred or under or by virtue of judicial proceedings, shall operate to divest all estate, right, title, interest, claim and demand whatsoever, either at law or in equity, of the Company of, in and to the Collateral so conveyed, assigned or transferred, and shall be a perpetual bar, both at law and in equity, against the Company, its successors and assigns, and against any and all persons claiming or to claim the Collateral conveyed, assigned or transferred, from, through or under the Company, its successors or assigns.

(d) Purchaser Discharged. The receipt of GECC for the consideration paid at any such conveyance, assignment or transfer shall be a sufficient discharge therefor to any purchaser of the Collateral; and no such purchaser or his representatives, grantees or assigns, after paying such consideration and receiving such receipt, shall be bound to see to the application of such consideration or any part thereof upon or for any trust or purpose of this Mortgage, or in any manner whatsoever be answerable for any loss, misapplication or nonapplication of any such consideration or any part thereof, or be bound to inquire as to the authorization, necessity, expediency or regularity of any such sale.

(e) Application of Proceeds. The proceeds of any exercise of remedies hereunder, whether made under the right of entry or the power of sale herein granted or pursuant to judicial proceedings or otherwise, together with any other sums which then may be held by GECC under any of the provisions of this Mortgage, shall be applied as follows:

(i) to the payment of the costs and expenses of GECC, its agents, attorneys and counsel, and of all expenses, liabilities and advances made or incurred by GECC in managing and maintaining the Collateral c. the collateral under any other Loan Document, the costs and expenses of effecting any conveyance, assignment or transfer hereunder or exercising any right or remedy hereunder or under any other Loan Document or otherwise and to the payment of all taxes, assessments or other Liens, except Liens subject to which any Collateral shall have been sold;

- (ii) to the payment of interest on the Note;
- (iii) to the payment of principal on the Note;
- (iv) to the payment of any and all other Obligations at the time due and owing to the Persons entitled thereto; and
- (v) to the payment of the surplus, if any, to the Company, its successors or assigns, or to whomsoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

(f) Waiver of Rights. The Company agrees, to the fullest extent allowed by applicable law, that it will not at any time insist upon or plead, or in any manner whatever claim, or take the benefit or advantage of, any stay or extension law, now or at any time hereafter in force; nor will it claim, take or insist upon any benefit or advantage from any law now or hereafter in force providing for the valuation or appraisal of the Collateral, or any part thereof, prior to any disposition thereof to be made pursuant to any provision herein contained, or to the decree, judgment or order of any court of competent jurisdiction; nor will it insist upon, or be entitled to, the fixing of an upset price upon the Collateral, or any part thereof, in connection with any such sale; nor after any such disposition will it claim or exercise any right under any statute heretofore or hereafter enacted, or otherwise, to redeem the Collateral so sold or any part thereof; and the Company, for itself and all Persons claiming under or through it, hereby expressly waives, to the fullest extent allowed by applicable law, all such rights and all benefit and advantage of any such law or laws, and it covenants and agrees, to the fullest extent allowed by applicable law, that it will not hinder, delay or impede the execution of any power herein granted or delegated to GECC, but will suffer and permit the execution of every such power as though no such law or laws had been made or enacted. In exercising its right to take possession of the Collateral upon the occurrence of an Event of Default, GECC may enter into or upon any part of the Collateral without being guilty of trespass or any wrongdoing, and without liability for damages thereby occasioned except for its gross negligence or wilful misconduct. In addition, the Company, for itself and all Persons claiming under or through it, to the fullest extent allowed by applicable law, hereby (i) agrees that, if any Collateral proposed to be conveyed, assigned or transferred hereunder should be situated in two or more jurisdictions, counties or



judicial districts GECC shall have full power in connection with such conveyance, assignment or sale to select in which jurisdiction, county or judicial district any or all such Collateral shall be conveyed, assigned or transferred, (ii) waives the provisions of any law heretofore or hereafter enacted in any jurisdiction in which Collateral is located, insofar as such law restricts the right of GECC to offer for sale more than a specified amount of the Collateral, and GECC may offer for sale any or all Collateral at any time regardless of the manner in which it may be described, (iii) waives the provisions of any law heretofore or hereafter enacted in any jurisdiction in which Collateral is located, providing for forfeiture for failure to note of record an assignment of indebtedness secured by mortgages, security interests or assignments, and (iv) waives trial by jury in any action or proceeding brought by, or any counterclaim asserted by GECC which action, proceeding or counterclaim in any way arises out of or is connected with this Mortgage. All recitals in any instrument of assignment or any other instrument executed by GECC incident to any sale, transfer, assignment, disposition or utilization of the Collateral or any part thereof shall be full proof of the matter stated therein and no other proof shall be required to establish full legal propriety of the sale or other action taken by GECC or of any fact or condition incident thereto, all of which shall be deemed conclusively to have been performed or to have occurred.

(g) Delay Not Waiver. No delay or omission of GECC to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default, or an acquiescence therein; and every power and remedy given by this Mortgage may be exercised from time to time, and as often as may be deemed expedient, by GECC.

(h) Abandonment Not Waiver. In case GECC shall have proceeded to enforce any right under this Mortgage by foreclosure, entry or otherwise, and such proceeding shall have been discontinued or abandoned because of waiver or for any other reason, or shall have been determined adversely to GECC, then, and in every such case, the Company and GECC shall severally and respectively be restored to their former positions and rights hereunder in respect of the Collateral, and all rights, remedies and powers of GECC and of the Company shall continue as though no such proceedings had been taken.

(i) Right To Buy at Sale. To the fullest extent allowed by applicable law, GECC or any other Person entitled to the benefit of any Obligation may be a purchaser of the Collateral or any part thereof or any interest therein at any sale thereof, whether pursuant to foreclosure or power of sale or otherwise. GECC may apply against the purchase price therefor the amount then due in respect of the Obligations, and any other Person entitled to the payment of any Obligation may apply against the purchase price therefor the amount thereof then due and owing to such Person, the payment of which this Mortgage by its terms secures, which shall, upon distribution of the net proceeds of such sale, be payable to such Person. GECC or any such Person shall, upon any such purchase, acquire good title to the property so purchased, free of the lien of this Mortgage.

(j) Appointment of Receiver. GECC shall, as a matter of right and to the extent allowed by law, be entitled to the appointment of a receiver (who may be GECC or any successor or nominee thereof) for all or any part of the Collateral, whether such receivership be incidental to a proposed sale of Collateral or the taking of possession thereof or otherwise, and the Company hereby consents to the appointment of such a receiver and will not oppose any such appointment. Any receiver appointed for all or any part of the Collateral shall be entitled to exercise all the rights and powers with respect to the Collateral to the extent instructed to do so by GECC.

(k) Right of GECC To Perform the Company's Covenants. If the Company shall fail to make any payment or perform any act required to be made or performed hereunder or under any other Loan Document, GECC, upon notice to the Company and expiration of any applicable grace period (except in cases of emergency that threaten bodily injury or material damage to property, in which case GECC will allow such notice and grace period, if any, as is reasonable in the circumstances), but without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of the Company, and, to the extent permitted by applicable law, may enter into and upon the Collateral for such purpose and take all such action thereon as, in GECC's opinion, may be necessary or appropriate therefor, subject to the rights of other Persons under the Leases or otherwise. All sums so paid by GECC and all reasonable costs and expenses (including, without limitation, attorneys' fees and expenses) so incurred, together with interest thereon at the rate specified in

Section 2.4 of the Loan Agreement from the date of payment or incurring until paid, shall constitute additional indebtedness secured by this Mortgage and shall be paid by the Company to GECC upon demand therefor.

(l) Remedies Cumulative. Each right, power and remedy of GECC provided for in this Mortgage or otherwise or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Mortgage or otherwise or now or hereafter existing at law or in equity or by statute (including, without limitation, the applicable Uniform Commercial Code) or otherwise, and the exercise or beginning of the exercise by GECC of any one or more of the rights, powers or remedies provided for in this Mortgage or otherwise or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by GECC of any or all of such other rights, powers or remedies.

(m) Liability for Exercise of Remedies and Other Rights. GECC shall be under no liability for or by reason of any taking of possession, entry, renewal or holding, operation or management of Collateral or exercise of any other remedy or right hereunder, except for its gross negligence or wilful misconduct and except that any proceeds so received by GECC shall be applied in accordance with Section 4(e) hereof.

Section 5. Releases of Collateral. (a) Surplus Collateral. From time to time, the Company, subject to the conditions and limitations prescribed in this Section 5, and not otherwise, may request permission to sell, and GECC, upon delivery to GECC of the resolutions, opinion and certificates required by Section 5(f) may consent to the release from the Lien of this Mortgage, any Collateral which it shall no longer be necessary or expedient or advantageous, in the opinion of GECC, to retain for the operation, maintenance or use of the lines of railroad then subject to this Mortgage, or for use in the business of the Company.

(b) Joint Depot and Terminal Facilities. From time to time, the Company, subject to the conditions and limitations prescribed in this Section 5, and not otherwise, may, for the purpose of providing joint depot and terminal facilities with other railroads, request permission to sell parts of its tracks or other property, or grant trackage rights over such tracks, or make other arrangements, to or

with any terminal company or union depot company, or other railroad company with which it may enter into arrangements for such joint depot and terminal facilities, provided (a) that, in the opinion of GECC, the Company is not thereby prevented from maintaining and operating a continuous railroad system as theretofore operated, (b) that the Company secures and pledges or assigns under this Mortgage contracts giving it the right to use such joint depot or terminal facilities upon substantially equal terms with the other companies using the same and (c) that, in the opinion of GECC, the value of the property sold or the rights parted with and the value of the rights, moneys and property obtained shall be commensurate; and GECC, upon the delivery to GECC of the resolutions, opinion and certificates required by Section 5(f), may release the property so sold.

(c) Removed or Abandoned Property. GECC may, from time to time, release from the Lien of this Mortgage any franchise or portion thereof which is to be or shall have been surrendered by the Company, and any tracks and structures which are to be or shall have been removed or abandoned by it, provided (a) that such surrender of franchise or such removal or abandonment of tracks or structures shall be or shall have been made pursuant to any agreement with a state, municipality or other political division or subdivision of a state, or to legal requirement, and shall have been duly authorized by all public authorities, if any, having jurisdiction in the premises, (b) that the Company, as far as may be permitted by law, shall retain all franchises, tracks and structures necessary or proper to entitle it to maintain and operate a continuous railroad system as theretofore operated and (c) that, in the opinion of GECC, the value of the security afforded by this Mortgage shall not be, in any way, impaired or prejudiced thereby.

(d) Governmental Taking. Should any part of the Collateral be taken by the exercise of the power of eminent domain or should any governmental body or agency, at any time, exercise any right which it might have to purchase any part of the Collateral, GECC may release from the lien of this Mortgage the Collateral so taken or purchased, and shall be protected in doing so upon being furnished with an opinion of counsel satisfactory to GECC to the effect that such Collateral has been taken by exercise of the power of eminent domain or purchase by a governmental body or agency in exercise of a right which it had to purchase the same.

(e) Replacement of Equipment; Amendment of Leases. The Company shall have full power, in its

discretion, from time to time in the ordinary course of business, to dispose of any portion of the equipment, machinery, apparatus, implements and other portable personal property at any time held subject to the lien hereof, which may have become obsolete or otherwise unfit for use upon the Collateral, first or simultaneously replacing the same by new equipment, machinery, apparatus, implements or other portable personal property of at least equal value, which shall become subject to the lien of this Mortgage; provided, however, that the Company shall not have the power to dispose of property pursuant to this Section 5(e) in any fiscal year with an aggregate book value in excess of \$10,000, without the consent of GECC.

Subject to the provisions of Section 6 hereof, the Company, with the consent of GECC, may cancel, change, amend or supplement any Leases at any time subject to the Lien of this Mortgage but, in such event, any changed, amended or supplemented Lease shall be subject to this Mortgage in the same manner and to the same extent as that previously existing; provided, however, that, prior to any such cancellation, change, amendment or supplement, (a) a certificate of the President and the Chief Financial Officer of the Company shall have been furnished to GECC stating that such action in their opinion is advantageous to the Company, does not impair the security afforded by this Mortgage and does not operate to prevent the Company from maintaining and operating a continuous railroad system as theretofore operated, (b) a copy of a resolution of the Board of Directors of the Company approving such action shall also have been delivered to GECC and (c) GECC shall have been given not less than 15 days' prior notice of such action and shall not have objected thereto.

(f) Resolutions, Certificates and Opinions. GECC shall not release Collateral from the Lien of this Mortgage pursuant to Section 5(a) or 5(b) unless, in addition to satisfaction of the conditions to such release therein described, GECC shall have received:

(i) a copy of a resolution of the Board of Directors of the Company, certified by its Secretary, requesting such release and describing the Collateral so to be released;

(ii) a certificate signed by the President and by the Chief Financial Officer of the Company setting forth:

(A) a description of the Collateral the release of which is requested;

(B) the selling price of such Collateral and a description of, and the cost and fair value to the Company of, any consideration (other than cash) to be received in exchange therefor;

(C) that the fair value of such Collateral is not greater than the fair value of the consideration to be received therefor; and

(D) such matters as it shall be necessary to establish in order to show that the release of such Collateral is authorized under the provisions and restrictions of this Section 5;

(iii) any instruments necessary or appropriate or requested by GECC to subject to the lien of this Mortgage the consideration for the Collateral so to be released;

(iv) in case the release of Collateral is requested which is valued by GECC or by the President and Chief Financial Officer of the Company at \$10,000 or more, a certificate of an independent engineer selected by the Company and satisfactory to GECC setting forth that the fair value of the Collateral to be released is not greater than the consideration to be received therefor; and

(v) an opinion of counsel satisfactory to GECC:

(A) stating that, except for conditions to release which are within the discretion of GECC, the release requested is authorized by the provisions of this Section 5 and that the resolutions, certificates and other instruments which have been or are therewith delivered to GECC conform to the requirements of this Mortgage and constitute sufficient authority under this Mortgage for GECC to execute and deliver the release requested and that, upon the basis of the consideration described in the certificate delivered to GECC pursuant to paragraph (ii) of this Section, the

Collateral may properly be released from the lien of this Mortgage pursuant to such request;

(B) stating that any indebtedness included in the consideration for the Collateral so to be released is duly secured by a valid purchase money mortgage constituting a lien upon the Collateral to be released free and clear of all prior Liens;

(C) in case the consideration for the Collateral to be released, or any part thereof, consists of property other than cash, specifying the mortgages, deeds, conveyances, assignments, transfers and instruments of further assurance which will be sufficient to subject to the lien of this Mortgage such other property or stating that such other property is then subject to the lien of this Mortgage and that no such mortgage, deed, conveyance, assignment, transfer or instrument of further assurance is necessary for such purpose; and

(D) in case the consideration for the Collateral to be released, or any part thereof, consists of property other than cash, stating that the Company has acquired good title thereto (or good title subject only to such Liens as do not, in the opinion of such counsel, impair the use of such property by the Company), and that the same and every part thereof is free and clear of all Liens prior to or on a parity with the lien of this Mortgage, except taxes (remaining payable without penalty), and stating also that the Company has lawful power to acquire, own and use such other property or rights in its business.

The resolutions, opinions and certificates so to be furnished to GECC may be received by GECC as conclusive evidence of any of the facts, or of the continuance of any condition, or of anything by this Section 5 required to be established or shown in order to authorize the action sought in respect of any Collateral forming the subject of such resolutions and certificates, and shall be full warrant to GECC for any action taken on the basis thereof; but GECC, in its discretion, may require at the cost and expense of the Company such further and additional evidence as GECC may deem desirable.

Section 6. Leases and Rents. (a) Assignment.

The assignment of Leases and Rents contained in Section 2(a)(iv) hereof shall be fully operative without any further action on the part of the Company or GECC and shall entitle GECC to all Rents whether or not GECC takes possession of any of the Collateral. The Company hereby further grants to GECC the right (i) to enter upon and take possession of any of the Collateral for the purpose of collecting the Rents, (ii) to dispossess by the usual summary proceedings any tenant or other obligor defaulting in the payment thereof to GECC, (iii) to let the Collateral or any part thereof, and (iv) to apply the Rents, after payment of all necessary charges and expenses, toward payment of the indebtedness in such priority and proportions as GECC, in its discretion, shall deem proper, or to the operation, maintenance and repair of the Collateral, in each case whether or not sale or foreclosure has been instituted. Such assignment and grant shall continue in effect until the Note has been fully paid and shall be cumulative of all other rights and remedies available to GECC under this Mortgage or otherwise. The foregoing provisions shall constitute an absolute and present assignment of the Leases and Rents to GECC, subject, however, to the conditional permission given to the Company to collect the Rents until the occurrence of an Event of Default. Rents collected by the Company, or a portion of such Rents sufficient to discharge all current sums due on the Note, shall be held by the Company in trust for use in payment of the Note. The Company shall not, without the consent of GECC, (i) cancel any Lease, except where the lessee or other obligor is in default thereunder, having an unexpired term of one year or more unless a new Lease is entered into on terms at least as favorable to the Company as the Lease so canceled, (ii) modify any Lease having an unexpired term of one year or more unless the Lease as modified is on terms at least as favorable to the Company as the Lease prior to such modification, (iii) accept prepayment of installments of any portion of the Rents for a period of more than one month in advance or (iv) further assign the whole or any part of the Rents unless such assignment is expressly subject and subordinate to the rights of GECC hereunder. The Company shall (a) fulfill or perform each and every provision of the Leases on the part of the Company to be fulfilled or performed, (b) promptly send copies of all notices of default which the Company shall send or receive under the Leases to GECC, and (c) enforce, short of termination of the Leases, the performance or observance of the provisions thereof by the lessees or other obligors thereunder. Nothing contained in this paragraph shall be construed as imposing on GECC any



of the obligations of any party under the Leases. The Company shall obtain all consents and approvals, if any, necessary to the effective assignment of the Leases and Rents in accordance with the terms hereof.

(b) Notifications to Lessees. The Company will, to the extent required by law, cause the lessee under each Lease to be duly notified in writing (unless the substance and effect of such notice shall be contained in such Lease) of the subjection of the owner's interest, as lessor, in and to such Lease to the Lien of this Mortgage and of the name and address of GECC. Each such notice shall specifically refer to the provisions of such law, if any, shall state that the lease of such lessee is a Lease as herein defined and shall be accompanied by a copy of the relevant provisions of this Mortgage. If this Mortgage is assigned by GECC or the address of GECC shall at any time be changed, the Company will, to the extent required by law, cause each lessee under each Lease to be promptly notified in writing of the name and address of such assignee or successor or the new address of GECC, as the case may be. The Company will request each lessee under each Lease to whom any notice is sent pursuant to this Section to acknowledge receipt of such notice. The Company will promptly deliver to GECC a copy of each such acknowledgment of receipt which it is able to obtain. GECC shall not be responsible for securing or causing the Company to secure any such acknowledgment.

(c) Amendment. The Company may amend or modify the provisions of any Lease without the consent of GECC only if such amendment shall not reduce the Rent payable or space demised thereunder or alter the term thereof or have an adverse effect upon the value of the Company's interest thereunder, and if such Lease, as amended, shall otherwise be in compliance with the requirements of this Mortgage.

(d) Prepayments of Rent. The Company agrees that it will not receive or collect, or permit the receipt or collection of, any payment of Rent under any Lease more than one month in advance of the respective period in respect of which it is to accrue, except that (i) in connection with the execution and delivery of any Lease or of any amendment to any Lease, Rent thereunder may be collected and received in advance in an amount not in excess of one month's rent and/or a reasonable security deposit may be required thereunder (provided that such deposits are maintained in accordance with applicable law) and (ii) the Company may receive and collect escalation and other charges in accordance with the terms of each Lease.

(e) Future Leases. The Company agrees that it will not enter into any material Lease which involves a lease of the Acquired Rail Assets or otherwise is significant to the conduct of the Company's business after the date hereof that does not contain terms to the effect as follows:

(i) any such Lease and the rights of the tenants or other Persons thereunder shall be subject and subordinate to the rights of GECC under, and the Lien of, this Mortgage;

(ii) in the case of any foreclosure hereunder, the rights and remedies of the tenant or other Person in respect of any obligations of any successor landlord thereunder shall be nonrecourse as to any assets of such successor landlord other than its interest in the Collateral;

(iii) any mortgagee or purchaser upon the foreclosure (or the giving or granting of a deed in lieu thereof) of any of the Collateral which shall succeed to the rights of the landlord under any such Lease shall not be (x) liable for any previous act or omission of landlord, (y) subject to any offset which shall have theretofore accrued to the tenant against landlord or (z) bound by any prepayment of more than one month's installment of base rent; and

(iv) the tenant agrees to attorn, at the option of GECC or the purchaser of the Collateral, upon a foreclosure (or the giving or granting of a deed in lieu thereof).

(f) Events of Default. The Company hereby irrevocably authorizes and directs each tenant or other Person under a Lease, upon receipt of notice from GECC that an Event of Default has occurred, to pay directly to, or as directed by, GECC all Rent accruing or due under its Lease from and after the receipt of such notice. The Company agrees that any tenant or other Person shall have the right to rely upon the notice from GECC, and shall pay such Rent to GECC as directed by the Company without any obligation to inquire into the actual existence of any Event of Default claimed by GECC, and notwithstanding any notice from or contrary claim by the Company, and the Company shall have no right or claim against such tenants or other Person for any Rent so paid to GECC. Such Rent shall continue to be paid to GECC unless and until the Event of Default which gave rise to the termination of the Company's conditional

permission to collect the Rents under subsection (a) of this Section 6 is cured to the satisfaction of GECC, so long as the Note shall not then be due and payable, whether at maturity, by declaration or acceleration or otherwise. Following an Event of Default, GECC shall enjoy all the benefits of and be entitled (but shall not be obligated) to exercise all rights under the Leases, including but not limited to rights of amendment and termination. In the event any such Event of Default is cured as aforesaid, GECC shall direct each tenant or other Person by written notice to resume the payment of all Rent accruing or due under its Lease directly to the Company from and after such tenant's or other Person's receipt of such notice from GECC.

(g) Enforcement of Leases. The Company at its expense will enforce the Leases in accordance with their terms. Neither this Mortgage nor any action or inaction on the part of GECC shall release any tenant or other Person or the Company from any of their respective obligations under the Leases or constitute an assumption of any such obligation on the part of GECC. No action or failure to act on the part of the Company shall adversely affect or limit the rights of GECC under this Mortgage, or through this Mortgage, under the Leases.

(h) Further Assurances. During the term hereof, all rights, powers and privileges of GECC herein set forth are coupled with an interest and irrevocable, subject to the terms and conditions hereof, and the Company will not take any action under the Leases or otherwise which is inconsistent with this Mortgage or any of the terms hereof and any such action inconsistent herewith or therewith shall be void. The Company will, from time to time, upon request of GECC, execute all instruments and further assurances and all supplemental instruments and take all such action as GECC from time to time may reasonably request in order to perfect, preserve and protect the interests being assigned to GECC hereby. The Company hereby agrees that it will not, unilaterally or by agreement, subordinate, amend, modify, extend, discharge, terminate, surrender, waive or otherwise change any term of any of the Leases in any manner which would violate this Mortgage. If the Leases shall be amended as permitted hereby, they shall continue to be subject to the provisions hereof without the necessity of any further act by any of the parties hereto.

(i) No Obligations. Nothing contained herein shall operate or be construed to (A) obligate GECC to perform any of the terms, covenants or conditions contained

in the Leases or otherwise to impose any obligation upon GECC with respect to the Leases (including, without limitation, any obligation arising out of any covenant of quiet enjoyment contained in the Leases in the event that any tenant or other Person shall have been joined as a party defendant in any action by which the estate or interest of such tenant or other Person shall be terminated), or (B) place upon GECC any responsibility for the operation, control, care, management or repair of the Collateral.

Section 7. Miscellaneous. (a) Real Property Transfer Gains Tax. The Company shall (A) pay when due any tax imposed upon it pursuant to the provisions of the tax laws of the States of Alabama and Florida or other jurisdictions in connection with the foreclosure or partial foreclosure of this Mortgage, the acceptance by GECC (or a nominee of GECC) of a deed or assignment to any part of the Collateral, in lieu of foreclosure, or partial foreclosure, of this Mortgage or the exercise by GECC of any remedy set forth herein (a "Gains Tax") and (B) prepare, execute and file any form or other instrument required to be prepared, executed and filed in connection therewith. Should the Company default in the payment of a Gains Tax, GECC may, but shall not be obligated to, pay the same or any part thereof, and the Company shall, on demand, reimburse GECC for all amounts so paid plus interest thereon at the rate set forth in Section 2.4 of the Loan Agreement. The Company hereby irrevocably appoints GECC as the true and lawful attorney of the Company (coupled with an interest), in its name and stead, to pay a Gains Tax pursuant to the preceding sentence, and, if the Company shall fail to comply with its obligations under clause (B) of the first sentence of this Section 7(a) after having been given a reasonable opportunity to comply therewith, to prepare, execute and file any forms or other instruments required to be prepared and filed in connection therewith. The Company shall provide GECC with all information required for completion of such forms or instruments, including, without limitation, information as to capital improvements made in respect of the Collateral from time to time. The Company has provided GECC with a certified statement that its aggregate cost basis in the Collateral as of the date hereof is \$889,000. The obligations of the Company pursuant to clause (B) of the first sentence of this Section 7(a) shall survive the foreclosure, or partial foreclosure, of this Mortgage, the acceptance by GECC of a deed or assignment of any part of the Collateral, in lieu of a foreclosure, or partial foreclosure, of this Mortgage, and the exercise by GECC of any remedy set forth herein. In the event a Gains Tax shall be repealed, or

shall be amended such that no such tax would be imposed in connection with any of the events described in clause (A) of this Section 7(a), the Company shall thereafter be relieved of its obligations under this Section 7(a).

(b) Stamp and Other Taxes. The Company will pay any United States documentary stamp taxes, with interest and fines and penalties, and any mortgage recording taxes of any state or subdivision thereof, with interest and fines and penalties, that may hereafter be levied, imposed or assessed under or upon or by reason of this Mortgage, the Obligations secured thereby or any instrument or transaction affecting or relating to any thereof and in default thereof GECC may advance the same and the amount so advanced shall be payable by the Company to GECC upon demand therefor, together with interest thereon at the rate set forth in Section 2.4 of the Loan Agreement; provided, however, that the Company shall not be obligated under this Section 7(b) to pay any taxes which may arise in connection with the ownership or transfer by GECC of the Obligations or the Note or any interest therein or which may be imposed upon the income of GECC.

(c) Additional Security. Without notice to or consent of the Company and without impairment of the lien and rights created by this Mortgage, GECC may accept (but the Company shall not be obligated to furnish) from the Company, or from any other Person or Persons, additional security for the Obligations. Neither the giving of this Mortgage nor the acceptance of any such additional security shall prevent GECC from resorting, first, to such additional security, and, second, to the security created by this Mortgage without affecting the Security Interests and GECC's rights under this Mortgage.

(d) Changes in Law Regarding Taxation. In the event of the passage after the date of this Mortgage of any law of the State of Alabama or Florida deducting from the value of real property for the purpose of taxation any lien or encumbrance thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for state or local purposes or the manner of the collection of any such taxes, and imposing a tax, either directly or indirectly, on this Mortgage or the Obligations, GECC may, at its option, upon 60 days' notice, declare the Obligations to be due and payable; provided, however, that GECC shall not make such declaration and this Mortgage shall remain in effect if, notwithstanding said law: (i) (x) the Company may lawfully pay such taxes on behalf of GECC or (y) the Company and GECC may lawfully, and do, enter into an

enforceable agreement obligating the Company to pay to GECC an amount equal to any increase in taxation or charges imposed on or incurred by GECC by reason of such change in law (which agreement shall become part of this Mortgage), and (ii) the Company does in fact pay such taxes or such increases in taxation or charges, as applicable.

(e) Expenses of GECC. (i) If any action, suit or other proceeding affecting the Collateral or any part thereof shall be commenced, in which action, suit or proceeding GECC is made a party or participates or in which the right to use the Collateral or any part thereof is threatened, or in which it becomes necessary in the reasonable judgment of GECC to defend or uphold the Security Interests and the other rights of GECC created by this Mortgage, then all reasonable amounts paid or incurred by GECC for the expense of any such action, suit or other proceeding or to protect its rights therein (whether or not it is made or becomes a party thereto) or otherwise to enforce or defend the Security Interests and such rights created by this Mortgage, shall be paid by the Company upon demand together with interest at the rate specified in Section 2.4 of the Loan Agreement from the date of the payment or incurring thereof, and any such amount and the interest thereon shall be a lien on the Collateral, prior to any right, or right to, interest in, or claim upon the Collateral attaching or accruing subsequent to or otherwise subordinate to the lien of this Mortgage, and the same shall be deemed to be an Obligation secured hereby. All other amounts paid, advanced or incurred by GECC in order to secure and protect the Security Interests or other security and rights provided hereunder shall be a like Lien on the Collateral and be deemed to be part of the Obligations secured hereby.

(ii) In the event this Mortgage or the Note is placed in the hands of counsel for collection of any amount payable hereunder or thereunder or for the enforcement of any of the provisions hereof or thereof, the Company agrees to pay all reasonable costs associated therewith incurred by GECC, either with or without the institution of an action, suit or other proceeding, in addition to all costs, disbursements and allowances provided by law, all such costs to be paid upon demand, together with interest thereon at the rate specified in Section 2.4 of the Loan Agreement from the date of notice or incurring thereof, and the same shall be deemed to be part of the Obligations secured hereby.

(f) Maximum Amount of Principal on the Note. The maximum amount of principal on the Note secured or to be secured by this Mortgage is \$1,030,000.

(g) Security Agreement, etc. (i) Grant of Security. This instrument may be construed as a mortgage, security agreement, assignment, chattel mortgage conveyance, pledge, financing statement, hypothecation or contract, among one or more of them, in order fully to effectuate the lien hereof and the purposes and agreements herein set forth. This Mortgage is a security agreement within the meaning of the Uniform Commercial Code as applicable to the personal property now or hereafter constituting part of the Collateral as to which the creation and perfection of the Security Interests are subject to such Uniform Commercial Code (the "Personal Property"), and is also a mortgage as to those portions of the Collateral that are classified as real property. Any completely executed counterpart of this instrument may be filed as a mortgage on real property or fixtures, or as a security agreement or financing statement or as both. The address of the Company, as debtor, and the address of GECC, as secured party, are shown on the first page of this Mortgage.

(ii) Financing Statements. The Company shall cause all financing and continuation statements and other instruments with respect to the Personal Property at all times to be kept recorded, filed or registered in such manner and in such places as may be required by law fully to evidence, perfect and secure the interests of GECC in the Personal Property, and shall pay all filing fees in connection therewith. The Company hereby appoints GECC as its attorney-in-fact to perform the obligations of the Company under this Section in the event it fails to do so.

(iii) Multiple Remedies. If an Event of Default shall have occurred, GECC, pursuant to Sections 9-501(4) of the Uniform Commercial Code as in effect in Alabama and Florida, as such Sections are currently constituted or may be hereafter amended, shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real property, as an alternative to proceeding in accordance with the default provisions of such Uniform Commercial Codes.

(h) Expenses of Disposition of Collateral. The Company shall reimburse GECC, within 10 days after demand, for all reasonable expenses of retaking, holding, preparing for sale, lease or other use or disposition, selling,

leasing or otherwise using or disposing of the Collateral which are incurred or paid by GECC, including, without limitation, all reasonable attorneys' fees, legal expenses and costs, and all such expenses shall be added to the Obligations and shall be secured hereby.

(i) Termination. If all the Obligations shall be paid, performed and discharged in full, GECC shall forthwith cause satisfaction and discharge of this Mortgage to be entered upon the record at the expense of the Company and shall execute and deliver or cause to be executed and delivered such instruments of satisfaction and reassignment as may be appropriate, and this Mortgage shall become null and void and all powers and appointments granted herein shall cease and determine. Otherwise, this Mortgage shall remain and continue in full force and effect.

(j) Severability. If any provision hereof is invalid, illegal or unenforceable, the other provisions hereof shall remain in full force and effect and the remaining provisions hereof shall be liberally construed in favor of GECC in order to effectuate the provisions hereof.

(k) Survival. All agreements, representations and warranties made herein shall survive the execution and delivery of this Mortgage.

(l) Notices. Any notice or other communication herein required or permitted to be given shall be in writing and shall be sent in the manner and with the effect provided in the Loan Agreement.

(m) Amendments and Waivers. No amendment, modification, termination or waiver of any provision of this Mortgage, or consent to any departure by the Company therefrom, shall in any event be effective without the written concurrence of GECC. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on the Company in any case shall entitle the Company to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section shall be binding upon each holder of the Note, whether or not the Note shall have been marked to indicate such amendment, modification, waiver or consent.

(n) Headings. Headings in this Mortgage are included herein for convenience of reference only and shall



not constitute a part of this Mortgage for any other purpose or be given any substantive effect.

(o) Applicable Law. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. All waivers, consents, confessions and releases provided for in this Mortgage are effective only to the extent permitted by applicable law. This Mortgage has been executed and delivered in New York, New York, and shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of New York, except to the extent that the laws of other jurisdictions shall be mandatorily applicable hereto.

(p) Successors and Assigns. The terms and provisions of this Mortgage shall inure to the benefit of GECC, the holders from time to time of the Note and all other Persons from time to time entitled to the benefit of any Obligation. This Mortgage shall be binding upon the Company, GECC, the holders of the Note, all other Persons entitled to the benefits of the Obligations and their respective successors and assigns. The Company may not, without the prior written consent of GECC, assign any of its rights or obligations hereunder.

(q) Counterparts. This Mortgage and any amendments, waivers, consents or supplements may be executed in any number of counterparts, and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

(r) Certification as to Advances. Certification is hereby made that this Mortgage is not intended to be a

future advance or open-end mortgage and that no additional or subsequent advances will be made hereunder.

IN WITNESS WHEREOF, the parties hereunder have caused this Mortgage to be duly executed as of the date first above written.

ALABAMA & FLORIDA RAILROAD CO., INC.

By: *[Signature]*

Title: *President*

[SEAL]

Attest:

*TR C C*

Title: *At Sec*

GENERAL ELECTRIC CREDIT CORPORATION

By: *[Signature]*

Title: Manager-Rail Financing

[SEAL]

Attest:

*Raymond W. Cooper Jr*

Title: Attesting Secretary

The name and address of the Company:

Alabama & Florida Railroad Company, Inc.  
200 South Main Street  
Opp, Alabama 36467

The name and address of GECC:

General Electric Credit Corporation  
1600 Summer Street  
Stamford, Connecticut 06905

This instrument was prepared by:

David L. Ridl, Esq.  
Cravath, Swaine & Moore  
One Chase Manhattan Plaza  
New York, New York 10005  
(212) 422-3000

## ACKNOWLEDGMENTS

STATE OF NEW YORK, )  
 ) ss.:  
 COUNTY OF NEW YORK, )

I, the undersigned, a notary public in and for said county and said state, hereby certify that H. P. Claussen whose name as President of ALABAMA & FLORIDA RAILROAD COMPANY, INC., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal on this the 24th day of July 1986.

*Ann Reese*

[Notarial SEAL]

Notary Public  
 My Commission Expires:

ANN REESE  
 Notary Public, State of New York  
 No. 24-4719977  
 Qualified in Kings County  
 Commission Expires ~~March 30, 19~~ 6/30/88

STATE OF NEW YORK, )  
 ) ss.:  
 COUNTY OF NEW YORK, )

I, the undersigned, a notary public in and for said county and said state, hereby certify that Patrick J. McNeela whose name as Manager-Rail Financing of GENERAL ELECTRIC CORPORATION, a New York corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this the 24th day of July 1986.

*Ann Reese*

[Notarial SEAL]

Notary Public  
 My Commission Expires:

ANN REESE  
 Notary Public, State of New York  
 No. 24-4719977  
 Qualified in Kings County  
 Commission Expires ~~March 30, 19~~ 6/30/88

ANNEX I

Station building at Opp, Alabama.

Station building at Geneva, Alabama.

Track materials consisting of rail, joint bars, tie plates, crossties and ballast used in the construction of trackage between Station 22+57 in Georgiana, Alabama, to Milepost AF-625.3 in or near Geneva, Alabama.

Locomotive, Model No. EMDGP9, Unit No. 6076.

Locomotive, Model No. EMDGP9, Unit No. 6084.

Locomotive, Model No. EMDGP9, Unit No. 6094.

Locomotive, Model No. EMDGP9, Unit No. 6226.

Locomotive, Model No. EMDGP9, Unit No. 6011.

ANNEX II

None as of the Closing Date.

### ANNEX III

#### General Permitted Encumbrances

1. The lien of this Mortgage on the Collateral.
2. Liens for taxes, assessments or governmental charges or claims the payment of which is not at the time due or is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP (as defined in the Loan Agreement) shall have been made therefor.
3. Statutory Liens of landlords, carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums the payment of which is not at the time due or is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made therefor.
4. Liens incurred on deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, other than any Lien imposed by or under ERISA (as defined in the Loan Agreement).
5. Any interest or title of a lessor under any lease permitted by Section 6.9 of the Loan Agreement.
6. Easements, rights of way, zoning ordinances, covenants and restrictions and other encumbrances which do not materially detract from the value of the Collateral or which do not impair the operation of the Acquired Rail Assets.
7. Any other Liens, the existence and validity of which are at the time being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made therefor; provided, however, that no such Lien shall be permitted if it shall cause an Event of Default under the Loan Agreement or the Note.